

OPINION 2339 (Case 3584)***Erythemis* Hagen in Schott, 1861: precedence given over *Leptthemis* Hagen, 1861 (Insecta, Odonata)**

Abstract. The Commission has confirmed the priority of the generic name *Erythemis* Hagen in Schott, 1861 for a group of common dragonflies from the New World, over *Leptthemis* Hagen, 1861.

Keywords. Nomenclature; taxonomy; Insecta; Odonata; LIBELLULIDAE; *Erythemis*; *Leptthemis*; *Erythemis peruviana*; *Erythemis bicolor*; dragonflies; New World.

Ruling

- (1) Under the specific powers it is confirmed that the generic name *Erythemis* Hagen in Schott, 1861 [26 February] has priority over *Leptthemis* Hagen, 1861 [31 July].
- (2) The name *Erythemis* Hagen in Schott, 1861 [26 February] (gender: feminine), type species by monotypy *Libellula bicolor* Hoffmannsegg in Erichson, 1848 is hereby placed on the Official List of Generic Names in Zoology, with the endorsement that it is to be given precedence over *Leptthemis* Hagen, 1861, whenever these two names are considered to be synonymous.
- (3) The name *Leptthemis* Hagen, 1861 [31 July] (gender: feminine), type species by subsequent designation by Kirby (1889) *Libellula vesiculosa* Fabricius, 1775 is hereby placed on the Official List of Generic Names in Zoology, with the endorsement that it is not to be given priority over *Erythemis* Hagen in Schott, 1861, whenever these two names are considered to be synonymous.
- (4) The following names are hereby placed on the Official List of Specific Names in Zoology:
 - (a) *Libellula bicolor* Hoffmannsegg in Erichson, 1848, specific name of the type species of *Erythemis* Hagen in Schott, 1861;
 - (b) *vesiculosa* Fabricius, 1775, as published in the binomen *Libellula vesiculosa*, specific name of the type species of *Leptthemis* Hagen, 1861.

History of Case 3584

An application asking the Commission to conserve the generic name *Erythemis* Hagen, 1861 for a group of common dragonflies from the New World over the simultaneously published nominal genus *Leptthemis* Hagen, 1861 was received from Ângelo Parise Pinto (*Programa de Pós-Graduação em Ciências Biológicas (Zoologia) IB – USP, Museu de Zoologia da Universidade de São Paulo, São Paulo, SP, Brazil*), Rosser W. Garrison (*California Department of Food & Agriculture, Sacramento, CA, U.S.A.*), Dennis R. Paulson (*Slater Museum of Natural History, University of Puget Sound, Tacoma, WA, U.S.A.*), Thomas W. Donnelly (2091 Partridge Lane, Binghamton NY 13903, NJ, U.S.A.) & Michael L. May (*Rutgers University, New Brunswick, U.S.A.*) on 9 March 2012. After correspondence the case was published in BZN 69: 92–100 (June, 2012). The title, abstract and keywords of the case were

published on the Commission's website. A comment in support was published in BZN 69(3). New bibliographic data submitted by Gary Rosenberg and Judith Winston necessitated replacing the original proposal (to assign priority to one of the names in Hagen, 1861) with a new proposal (to confirm the priority of an earlier use of one name in another work).

Decision of the Commission

On 1 December 2013 the members of the Commission were invited to vote on the proposals published in BZN 69: 95–96. At the close of the voting period on 1 March 2014 the votes were as follows:

Affirmative votes – 16: Ballerio Brothers, Grygier, Halliday, Harvey, Kottelat, Krell, Lamas, Minelli, Pape, Rosenberg, Štys, van Tol, Winston, Yanega, Zhang and Zhou.

Negative votes – 7: Alonso-Zarazaga, Bogutskaya, Fautin, Kojima, Kullander, Lim and Patterson.

Bouchet abstained.

Ng and Pyle were on leave of absence.

Voting FOR, Rosenberg said that it was likely that *Erythemis* was published before *Lepthemis*. It was introduced in a footnote on p. 261 of the 'Report of the Secretary of War, communicating, In compliance with a resolution of the Senate, Lieutenant Michler's report of his survey for an interoceanic ship canal near the Isthmus of Darien.' The footnote says 'Through the kindness of Baron Robert Von Osten Sacken, of the Russian legation, we are informed of the recent determination of three species of this interesting family by Hagen, whose catalogue is soon to be published under the auspices of the Smithsonian Institution. The species belonging to our collection are: *Erythemis bicolor*, Erichson; *Diplax ochracea*, Burm; and *Gomphoides tenuis*, Hagen.' The author of this section (Appendix I. Zoölogy-Invertebratae, pp. 260–268) was A. Schott (p. 268). Schott was cited by Hagen (1861) as having collected *Erythemis bicolor* in New Grenada. Assuming Schott (1861) was published before Hagen (1861), *Erythemis* Hagen in Schott, 1861 has priority over *Lepthemis* Hagen, 1861, and the type species is *Libellula bicolor* by monotypy, not *Libellula peruviana* by subsequent designation. Since these names were considered synonymous in the application, the change in type species should not affect the circumscription of the genus. He explained that he had voted FOR the case on the assumption that it would be resolved under the plenary power (Article 80.2.2) if *Erythemis* and *Lepthemis* both dated from Hagen (1861) and under the specific powers (Article 80.2.1) if *Erythemis* was introduced in Hagen in Schott (1861).

The report itself says that it was sent to the government printing office on 16 February 1861. The report was printed for the 36th U.S. Congress, second session, which ended on 4 March 1861, but that in itself does not mean the document was printed by then.

The website <http://memory.loc.gov/ammem/hlawquery.html> allows search of U.S. congressional documents. Searches for 'ship canal', 'interoceanic' and 'inter-oceanic' in the 36th Congress found the follow items:

Senate Journal for Friday, February 15, 1861 (p. 232) said that Lieutenant Michler's report was laid before the Senate on that date, so we can infer that the

manuscript was ready. On p. 233, the motion to print was ordered referred to the Committee on Printing.

On Saturday, February 16, 1861 (p. 239), the committee sent the motion back for the Senate itself to vote on; the Senate passed the motion to print.

This is reported in more detail in the Congressional Globe for Monday, February 18, 1861 (p. 60), which indicates that the committee sent it back because it didn't have a charge, such as determining the number of copies to print. On Tuesday, February 26, 1861 (*Senate Journal*, p. 319), two resolutions were submitted:

'Resolved, That there be printed one thousand additional copies of the report of Lieutenant Michler, on the survey of the proposed route of an inter-oceanic canal from the Atlantic to the Pacific, for the use of the War Department and the officer named.'

'Resolved, That there be printed for the use of the Navy Department the same number of copies of the report of Lieutenant Craven, of the United States Navy, of the survey of the proposed route of an interoceanic canal from the Atrato to the Pacific, as are printed for the use of the War Department of the Report of Lieutenant Michler, of the United States Army'. Therefore we can conclude that the report was printed by 26 February 1861. Presumably more copies were ordered printed because distribution of the first printing created demand.

Erythemis Hagen in Schott, 1861 [26 February] therefore has priority over *Lepthemis* Hagen, 1861 (July) and has type species *Libellula bicolor* by monotypy. The U.S. government was routinely a sponsor of scientific research in 1800s, the results of which were published in reports for branches of the government. For example, The U. S. Naval Astronomical Expedition was published in 1855 for the U.S. House of Representatives as shown on the title page. The title page also shows that the authors of the zoological sections were well-known scientists: Spencer Baird, John Cassin, Charles Girard, Augustus Gould and Timothy Conrad. Many new taxa were described in this work. Academy of Natural Sciences of Philadelphia's copy of this work was not received from the U.S. government, but was a gift of the coordinating author of the report, J. M. Gilliss, who was a scientist (an astronomer) and a naval officer. Government publications were distributed broadly to state libraries, were available for purchase, and were also available from their authors. They clearly were intended for permanent scientific records, because science is one of the pursuits of the U.S. government. If we say that the Schott report is not available because it was a government report, we would make thousands of names in such reports unavailable. The same is true for reports of many other governments. *Erythemis* Hagen in Schott, 1861 is available by indication under Article 12.2.5 because the available name *bicolor* Erichson [1848] was used in combination with it. Also voting FOR, Grygier said that the list of 'over 120 citations by at least 65 different authors' using *Erythemis* as the senior synonym should have been entrusted to the Secretariat and if it was, the fact should have been stated.

ABSTAINING, Bouchet said that Gary Rosenberg's finding that *Erythemis* was actually published before *Lepthemis* could have of course nullified the application. If this was confirmed, he would of course accept the priority of *Erythemis* over *Lepthemis*. In case it was not confirmed, para. 10 of the application showed that usage of the name *Lepthemis* as a valid name had not been discontinued in the literature of the last 50 years. There was thus no reason to discard it when, in

addition, it was selected by First Reviser's choice over the simultaneously established *Erythemis*. Voting AGAINST, Alonso-Zarazaga said that he did so because the situation was the result of sloppiness or deliberate non-compliance in following the decisions correctly taken under the Code. He added that Schott's paper (1861) was a report to the US Senate and he wondered whether this kind of work complied with Article 8.1.1 of the Code, as it was published for the purpose of accounting to someone the results of investment of public money, in this case, in an expedition, not that 'of providing a public and permanent scientific record.' He explained that if Rácenis's (1958) decision, which he fully supported, had been accepted and followed, this application would have been unnecessary. This decision was recent and made under the Code then in force, not in the pre-Code era. He considered this to be another example of a change being requested to a nomenclatural act made in a non-First World country, for the benefit of First World users, mostly because one of the species in the U.S.A. (where science is usually well funded) had been the subject of many studies. In his opinion this was unethical. Also voting AGAINST, Fautin said that a taxonomic decision was published on this matter – to ignore the action of Rácenis (1958), it seemed to her, was to minimize (or worse!) the type of research zoologists did. An appeal to the Commission in the future could overturn, without any significant new data, any well-considered, published action. Kojima, voting AGAINST, said that it was not clear why Rácenis (1958) was considered as the First Reviser while Kennedy (1923) was not. Regardless whether the First Reviser was Kennedy (1923) or Rácenis (1958), if the synonymy of *Erythemis* Hagen, 1861 and *Lepthemis* Hagen, 1861 was accepted, the biologists (including taxonomists) working on this small group of dragonflies should have accepted precedence of *Lepthemis* over *Erythemis* following the Articles of the Code.

The following are the original references to the names placed on an Official List by the ruling given in the present Opinion:

- Erythemis* Hagen in Schott, 1861, Appendix I. Zoölogy-Invertebratae, in *Report of the Secretary of War*, no. 9, p. 261.
- Lepthemis* Hagen, 1861, *Smithsonian Institution Miscellaneous Collections*, 4: 160.
- bicolor*, *Libellula*, Hoffmannsegg in Erichson, 1848, *Insecten*. In: Schomburgk, R., *Reisen in British Guiana in den Jahren 1840–1844, Versuch einer Fauna und Flora von British Guiana*, v. 3. Verlags Buchhandlung von J.J. Weber, Leipzig, p. 583
- vesiculosa*, Fabricius, 1775, *Systema Entomologiae*, Flensburgi et Lipsiae in Oficina Libraria, Kortii, p. 421.